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Family Law Information Centre
Court Procedure Booklet #21

Changing An Existing Order For Child and Spousal Support

The Family Law Information Centre and Queen's Bench Chambers Office cannot give you legal advice or financial guidance, and cannot predict the outcome of court decisions.

This booklet provides general information only. You should speak to a lawyer for legal advice about your own situation.

The Court Procedure Booklets listed on the inside front cover of this booklet are available electronically at ***www.albertacourts.ab.ca***.

The Court Procedure Booklets are available for sale from the Queen's Printer Bookstore by phoning (780)427-4952 in Edmonton, or (403)297-6251 in Calgary, or by phoning 310-0000 toll-free from anywhere in Alberta, and asking for either of these phone numbers or by accessing the Queen's Printer website at ***www.gov.ab.ca/qp***

0773288897X

Family Law Information Centres

The Family Law Information Centres can provide information about:

- the Federal Child Support Guidelines,
- how to calculate child support,
- how to apply for or change a Child Support Order,
- how to oppose an application that involves child support, and
- the procedures that must be followed in other family law matters, such as spousal support and child custody.

Family Law Information Centres can be found at the following locations:

Family Law Information Centre, Edmonton
Law Courts Building
1A Sir Winston Churchill Square
Edmonton, Alberta, T5J 0R2
Tel: 780-415-0404
Fax: 780-415-0403

Family Law Information Centre, Calgary
Court House Annex
603 - 6th Avenue SW
Calgary, Alberta, T2P 0T3
Tel: 403-297-6600
Fax: 403-297-6605

Family Law Information Centre Court Procedure Booklets

Applications Dealing With Child Support Or Arrears

If your application deals with child support or arrears, you should read the booklet "Information for Unrepresented Parties about Child Support Matters" before reading the appropriate procedure booklets below.

Child Support — when both parties live in Alberta

Obtaining Income Information from the Other Party for Child Support Applications
Applying for an Order for Child Support
Changing an Existing Order for Child Support
Decreasing Child Support, Reducing or Cancelling Arrears, and Stay of Enforcement
Reducing or Cancelling Arrears and Stay of Enforcement (where there is no change to ongoing support)
Applying for an Order for Child Support Under the Parentage and Maintenance Act
Applying for a Consent Order that Includes Child Support
Opposing an Application that Involves Child Support

Child Support — when the respondent lives outside Alberta

Provisional Application to Change an Order for Child Support - Divorce Act

Spousal Support

Applying for an Order for Spousal Support
Changing an Existing Order for Spousal Support

Custody and Access

Applying for an Order for Custody and/or Access
Changing an Existing Order for Custody and/or Access

Combination Applications

Applying for an Order for Child Support and Custody and/or Access
Changing an Existing Order for Child Support and Custody and/or Access
Applying for an Order for Child Support and Spousal Support
Changing an Existing Order for Child Support and Spousal Support
Applying for an Order for Child Support, Spousal Support and Custody and/or Access
Changing an Existing Order for Child Support, Spousal Support and Custody and/or Access

Restraining or Protection Orders

Applying for a Restraining Order Without Notice
Applying for a Protection Order on Notice
Review of an Emergency Protection Order

General

Opposing an Application that Does Not Involve Child Support
Applying for a Consent Order that Does Not Include Child Support
Transferring Your Court File
General Family Law Application

Family Law Information Centre
Court Procedure Booklet #21

Changing An Existing Order For Child and Spousal Support

Contents

About This Booklet 1

Before You Begin 2

Step 1: Complete the Child Support Data Sheets 3

Step 2: Prepare a Notice of Motion 4

Step 3: Prepare an Affidavit 5

Step 4: File the Affidavit and Notice of Motion and Choose a Court Date 7

Step 5: Serve the Application 8

Step 6: Prepare and File an Affidavit of Service 10

Step 7: Going to Court 11

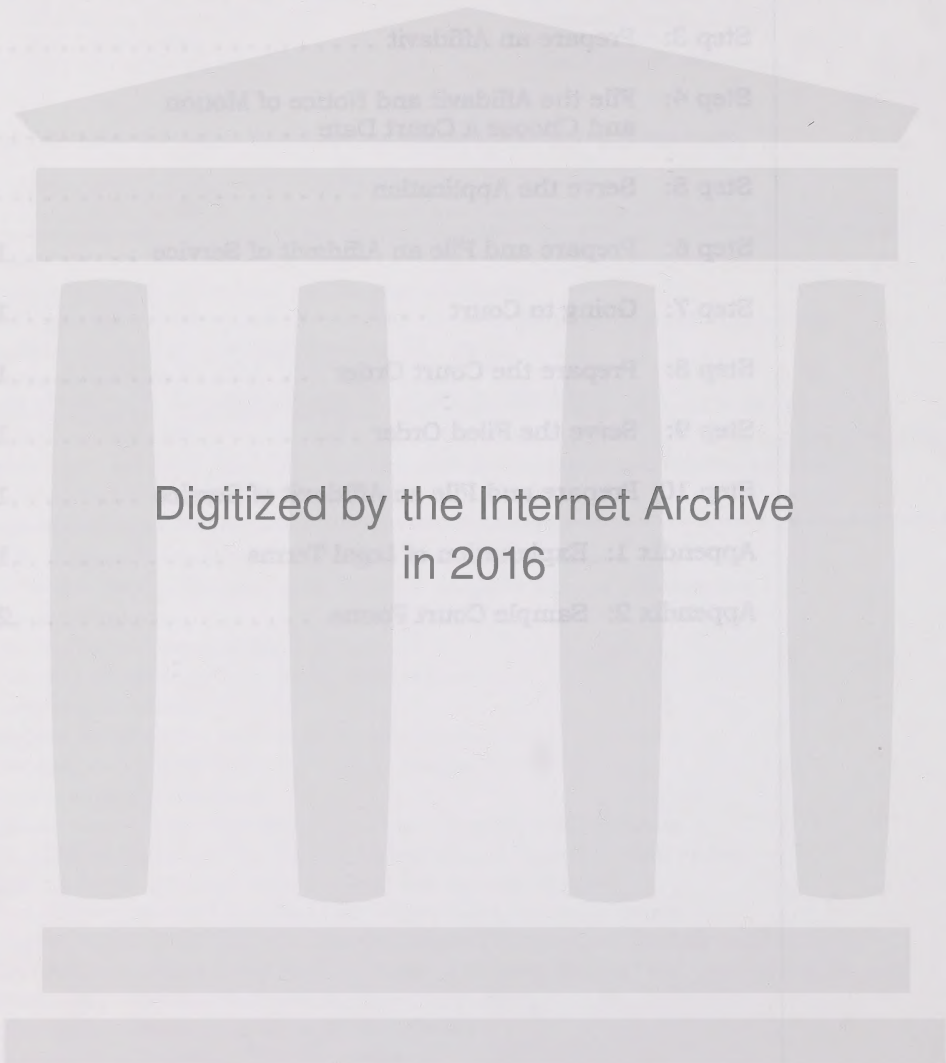
Step 8: Prepare the Court Order 14

Step 9: Serve the Filed Order 15

Step 10: Prepare and File an Affidavit of Service 15

Appendix 1: Explanation of Legal Terms 17

Appendix 2: Sample Court Forms 25



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About this Booklet

This booklet outlines what you must do when applying to change a Child and Spousal Support Order when both parties live in Alberta.

If the other party (the respondent) lives outside of Alberta, you may want to refer to the booklets listed on the inside front cover under "Child Support - when the respondent lives outside Alberta" which have general information about making applications of this nature.

If you are also asking to reduce or cancel arrears or for a stay of enforcement, you should instead use the Court Procedure Booklet, *Decreasing Child Support, Reducing or Cancelling Arrears and Stay of Enforcement* and refer to the booklet *Information for Unrepresented Parties about Child Support Matters.*

If the parties agree on the amount of child and spousal support, do not use this booklet. Rather, you can apply for a Consent Order. It must be signed by a judge, filed with the court, and it must follow court procedures. For more information, see Court Procedure Booklet, *Applying for a Consent Order that Includes Child Support.*

If the parties cannot agree on the amount of child and spousal support to be paid, then an application must be made to the court. You will need to follow each of the steps outlined in this booklet. The judge will determine the appropriate amount and terms of the Variation Order.

In all cases, including Consent Orders, the judge will refer to the *Federal Child Support Guidelines.* These guidelines make sure that the amount of child support is reasonable and in the best interest of the children.

The process outlined in this booklet is a very formal one that is designed to ensure fairness. There are 10 steps in the process. It is important that you follow each step carefully and thoroughly. The legal terms that you will need to know are explained in Appendix 1.

You should speak to a lawyer to determine if you have sufficient reasons to make the application, what evidence should be presented to the court, and possible outcomes for your application.

If you decide to go ahead without a lawyer, you may need to consult other sources of information as you prepare your application. You can find the following documents at your local court house library, other libraries or at the listed websites:

- *Alberta Rules of Court* - www.gov.ab.ca/qp/rules.html
- *Family Law Practice Notes (attached to the Alberta Rules of Court)* - www.albertacourts.ab.ca/webpage/qb/qb_family_law_practice_notes.htm
- *Divorce Act* - founder.library.ualberta.ca/ftp/en/laws/title/d/index.html
- *Domestic Relations Act, Parentage and Maintenance Act* - www.gov.ab.ca/qp/acts.html

Before You Begin

Obtain income information

You should start an application to change an Order for child and spousal support only **after** you have the income information from the other party. See the Court Procedure Booklet, *Obtaining Income Information from the Other Party for Child Support Applications*. Also, Section 21 of the *Federal Child Support Guidelines* states the type of income information that should be provided for child support applications. (For the information to request for spousal support applications, see Family Law Practice Note "2".)

Make sure you have a copy of the Support Order

Before you can make an application, there must be an existing Alberta court action between you and the other party.

You will need a copy of the Divorce Judgment or Support Order that you want to change. If you don't have a copy, you can get a copy of your Order from the court house where it is filed. There will be a fee for this service.

The Order will give you the court action number and tell you exactly what was originally ordered. You can also use it to show which paragraph(s) of the Order you want to change.

Your application must be made, and all documents filed, in the judicial district where your initial action (for example, divorce) was filed. A list of all Chambers or Clerk's Offices located across the province (the judicial districts) is on the inside back cover of this booklet.

If you want to transfer your court file to another judicial district, see the Court Procedure Booklet, *Transferring Your Court File.*

Parenting After Separation Seminar

If you haven't already, you may have to attend the Parenting After Separation Seminar before you make your application. For more information about this, see the *Notice Of Mandatory Seminar* sheet, which is available from the Family Law Information Centre (please see the inside front cover of this booklet for locations) or Chambers Office (Clerk's Office).

Step 1: Complete the Child Support Data Sheets

1-1 Gather income information

Gather the income information needed to determine the amount of child support that should be paid according to the *Federal Child Support Guidelines.* This financial information should at least include: copies of the Income Tax T-1 General forms and notices of assessment and reassessment for each of the three most recent taxation years from Canada Customs and Revenue Agency, copies of the three most recent pay stubs showing gross pay for the year to date, or other proof of current income, and any other information you have to support the calculation of your and the other party's guideline income. You will also need a detailed list of any special expenses either party is asking for under Section 7 of the *Guidelines.* For more information, please see Sections 7 and 21 of the *Federal Child Support Guidelines* and the booklet *Obtaining Income Information from the Other Party for Child Support Applications.*

Note: Even if the *Federal Child Support Guidelines* do not require the income information of the person who will be receiving child support, the judge may still require it.

1-2 Complete the Child Support Data Sheets

You can get copies of the Child Support Data Sheets (Data Sheets) from the Family Law Information Centre, or if you live outside of Edmonton or Calgary, from your closest Clerk's Office.

1-3 Have your Data Sheets reviewed

Your Data Sheets must be formally reviewed. Take the Data Sheets, along with copies of all income and other financial information, to the nearest Family Law Information Centre and they will review them. The addresses are on the inside of the front cover of this booklet.

Make sure you take copies of all income and other financial information with you. The Family Law Information Centre cannot review your Data Sheets without copies of this financial information.

If you live outside of Edmonton and Calgary, the review may be done at your closest Clerk's Office.

Once the Family Law Information Centre has reviewed your Data Sheets, they will provide you with a form called a Review Memo, along with Child Support Summary Sheet(s). You will need the Review Memo and the Child Support Summary Sheet(s) in later steps.

The Family Law Information Centre can review only child support calculations, as there are no guidelines for determining spousal support.

Step 2: Prepare a Notice of Motion

You must complete a Notice of Motion Family Law Application. It tells the court and respondent the date, time, and place of the upcoming application. The Notice of Motion also includes everything that the applicant will be requesting from the court.

A sample of this form is on page 27. When completing this form, you must:

- mark the box before each item that you are requesting from the court and fill in any blanks for those items,

- give a brief statement of your reasons for making this application, and
- sign your name at the bottom of the form.

Right before your signature you are also asked to fill in the date that you swore your Affidavit in support. You will prepare this Affidavit in Step 3.

Step 3: Prepare an Affidavit

Affidavit evidence is the only type of evidence that a chambers judge will accept. It is important to include everything you need to prove your case and everything you want the judge to know. The only facts that you can discuss in court are those that are included in your or the other party's Affidavit on the court file.

The facts that you include in your Affidavit must be complete, accurate and relevant to the application before the court. There are serious consequences if you do not tell the truth. Remember that the other party or their lawyer can cross-examine or ask you questions on anything you include.

3-1 Prepare an Affidavit

You may use the sample Affidavit that begins on page 35. The facts in the Affidavit should be listed in separate numbered paragraphs. Each paragraph must be numbered consecutively (1,2,3...). Complete as much of the sample Affidavit as applies to your case. Then cross out any paragraphs that do not apply to your situation. See the instructions on page 26 on how to delete information from a court document.

Next, add any other facts you feel are necessary to support your application. Some sample clauses are on page 67. These clauses are just samples. You may need to print or type other clauses in order to present all of the facts in your own case.

Remember that the Affidavit will be read by the judge. Make sure that it is readable and understandable. If your Affidavit is messy or confusing, you will need to re-type the sample Affidavit.

Identify each document that you refer to in the Affidavit as an "Exhibit" and letter each one consecutively (Exhibit "A,"

Exhibit "B," and so on). For example your Affidavit may discuss "a copy of the letter from my employer dated January 1, 1999, which is attached and marked as Exhibit A."

Then attach one copy of each exhibit, in alphabetical order, to the Affidavit, immediately after the signature page and immediately before the last page (called the backer). Label each exhibit clearly as Exhibit "A," Exhibit "B," and so on.

3-2 Swear or affirm to the truth of your Affidavit before a commissioner for oaths

You must swear or affirm before a commissioner for oaths that the contents of your Affidavit are true. You may be asked to show personal identification.

A Chambers Clerk may act as a commissioner for oaths. The commissioner for oaths will check to make sure that each exhibit mentioned in the Affidavit is attached to the Affidavit. Each exhibit will have to be stamped with an exhibit stamp. The commissioner for oaths has the stamp. The stamp must be filled in for each exhibit. It is the commissioner for oaths who must sign each completed stamp.

Step 4: File the Affidavit and Notice of Motion and Choose a Court Date

4-1 Make copies of your documents

In order to proceed with your application you will need multiple copies of the documents that you have already completed. You should make the following number of copies of each document:

- Four copies of your Notice of Motion (total of five with the original).
- Three copies of your Affidavit and all exhibits (total of four).
- Three copies of your Review Memo and Child Support Summary Sheet(s) (total of four).

Whenever you photocopy your Affidavit, you must photocopy all of the exhibits as well.

Take the originals and the copies of these documents to the Chambers Office for filing. The address for the Chambers Office in each judicial district is on the inside back cover of this booklet. In smaller centres, the Chambers Office may not be a separate section, but would be part of the Queen's Bench Clerk's Office.

4-2 Choose a court date

When choosing your court date, remember that the respondent must have at least seven full days to reply to your application, not counting the date your application is served or your court date. Keep in mind the extra time you will need to serve your documents. It may take several days before the documents can be served in person. Or, the respondent may take a number of days to sign for and pick up registered mail. Step 5 will outline how to serve your application on the respondent.

The Chambers Clerk can help you choose a court date. Write the court date on the first page of all copies of the Notice of Motion.

4-3 File the Notice of Motion and Affidavit

The Chambers Clerk will file your Notice of Motion and Affidavit, and return copies to you. The clerk may not file your Review Memo and Child Support Summary Sheet(s), but may take a copy.

Step 5: Serve the Application

The *Alberta Rules of Court* contains specific rules to guarantee that the respondent has been notified of a court action, application or any resulting court orders. These rules refer to the "serving" of documents on the respondent. You may want to refer to *Rules 13 to 26* of the *Alberta Rules of Court* for the procedure for service of court documents.

The respondent must receive one copy of each of the following:

- the filed Family Law Notice of Motion;
- the filed Affidavit; and
- the Review Memo and Child Support Summary Sheet(s).

Note: Do not serve the original Family Law Notice of Motion (the one with your original signature and round filing stamp). You will need the original when you prepare the Affidavit of Service. See step 6-1.

You can serve the documents either by having them delivered in person or sending them by registered mail.

If you have the documents delivered in person, the respondent is properly served only if the documents are handed directly to the respondent. You should get another person to deliver the documents. This avoids possible conflict. It also avoids a possible disagreement between you and the respondent about whether the documents were actually served.

If you use registered mail, the documents are not properly served until the respondent has signed for the documents. Make sure to keep the customer receipt. It will have the item identifier number of your registered mail. To prove you served these documents, you will need both the Delivery Confirmation Record and the Acknowledgement of Receipt (or signature copy) from Canada Post. You will need the item identifier number of your registered mail to get the Delivery Confirmation Record or the Signature Copy.

The Delivery Confirmation Record is available at Canada Post's Internet website for a period of 45 days at www.canadapost.ca, or by calling Canada Post Customer Service at 1-888-550-6333 for a period of 24 months. You must also specifically request the Signature Copy from Canada Post by calling 1-888-550-6333. There is a fee for this service.

If you cannot locate the person that you wish to serve, you may use one or more of the following methods to find him or her:

- Look in a local phone book. If you have access to a computer, check Canadian and U.S. phone and address listings on the Internet at www.worldpages.com.
- Check Henderson's Directory, or any similar directory (these are available at your local public library).
- Talk to friends and relatives of the person you wish to locate.
- Call local or long distance telephone directory assistance.
- Contact the person's current or previous place of employment.
- Hire a process server or private investigator (listed in the Yellow Pages).

Step 6: Prepare and File an Affidavit of Service

6-1 Prepare the Affidavit of Service

There is a sample Affidavit of Service beginning on page 69. The Affidavit of Service is used to explain how and when the respondent received a copy of your application. The person who served the respondent must provide the information about service. The original Notice of Motion and one copy each of the Affidavit, Review Memo and Child Support Summary Sheet(s) must be attached to the Affidavit of Service as exhibits.

The person who served the documents must swear or affirm before a commissioner for oaths that the contents of the Affidavit of Service are true.

A Chambers Clerk may act as a commissioner for oaths. The person who signs the Affidavit may be asked to show personal identification.

6-2 Copy the Affidavit of Service

Make one copy of the complete Affidavit of Service. The complete Affidavit consists of the Affidavit of Service and all exhibits, including the original Notice of Motion and one copy each of the Affidavit, Review Memo and Child Support Summary Sheet(s).

6-3 File the Affidavit of Service

File the original and the copy of the Affidavit of Service with the Chambers Office. They will return one filed copy to you. Take this copy with you when you go to court.

Step 7: Going to Court

7-1 Prepare for court

Before going to court you should read "Points to Remember When Representing Yourself in Court" on page 13.

You will need to take the following things with you to court:

- a pen and paper to write down the judge's decisions as well as the judge's name, the court room number and date of the application;
- your copy of the filed Affidavit of Service, which includes the Notice of Motion, Affidavit, Review Memo and Child Support Summary Sheet(s); and
- one copy of the Review Memo and Child Support Summary Sheet(s) to hand to the clerk in court.

If you and the respondent are able to come to an agreement before the court date, you may want to prepare a Consent Order which must be signed by a judge. In this case, you should notify the court before your court date. See the Court Procedure Booklet, *Applying for a Consent Order that Includes Child Support.*

7-2 Adjourning a court application

You may not be prepared to proceed with your court application because you are negotiating the terms of a Consent Order or have not had the time to have the Consent Order typed up or signed. In that case, you and the respondent may agree that the application should be adjourned or delayed.

To adjourn an application by telephone, call the Chambers Clerk no later than 9:30 on the morning of your court date. Tell the clerk that you and the respondent have agreed to adjourn the application and the new court date that you have agreed to. The Chambers Clerk may ask you for the court action number. **You can only adjourn by telephone if both parties agree.**

After you have notified the clerk, you must confirm the adjournment in writing. Write a short letter to the clerk providing:

- the full names of both parties,
- the court action number,

- the date your application was to be heard,
- the new court date, and
- the fact that both parties agreed to the adjournment.

Fax or deliver the letter before your original court date. You can ask the clerk for the fax number.

You can also adjourn your application by attending court on the original court date and asking the judge to adjourn the application. If the respondent agrees, the judge will adjourn your application to the new court date. If the respondent does not agree, the judge will ask you to explain why you want the adjournment. The judge will also ask the respondent why they are against the adjournment. Then the judge will decide whether or not your application will be adjourned.

7-3 Attend court

Find your court room number by checking the Chambers lists which are posted in the court house. You can also check with a clerk. Make sure you have the correct court room number. There may be more than one court room in the building hearing family matters at the same time.

Your application will be assigned a number on the Chambers list. This number will be called when it is time for your application to be heard.

Other matters will be scheduled in court at the same time as your own. You will have to wait until you (or your number) are called. Difficult or long applications may have to wait until others are dealt with or may be moved to another date and time.

Hand the Review Memo and Child Support Summary Sheet(s) to the clerk in court when you are called. The clerk will hand them to the judge.

You will be asked to present your case to the judge. The only evidence you can discuss in court is what is included in your or the other party's Affidavit on the court file. You should be prepared to answer any questions the judge may have.

If your application is unsuccessful, you may have to pay costs.

Points to Remember When Representing Yourself in Court

The court house is a very traditional place. When you are representing yourself it is up to you to persuade the judge that your position is right. For this reason you must act, dress and speak in a way which helps and does not distract from your case. Here are some tips:

1. When you come to court, dress in clothes that are clean, neat and in good repair. You should be clean and neatly groomed.
2. How you act is as important as how you look. Be respectful to everyone in the court house, which includes the judges, court staff, lawyers, the other party involved in your case and security officers.
3. The court has a very busy schedule. Be on time for any application, case management meeting, pre-trial conference, or trial, or there may be consequences. For example, if you are late for an application, your application may be dismissed if you are the applicant or, if you are the respondent, the court may proceed without you.
4. The judge will not speak to you about your case except during a scheduled application, case management meeting, pre-trial conference or trial, and when the other party or lawyer is present.
5. Wait until you are addressed by the judge before talking, otherwise the judge will not respond.
6. Staff in the Clerk's office cannot give you legal advice or recommendations on what you should do. Always be polite to court house staff and provide them with any information or materials that are requested.
7. When you represent yourself it is very important that you take all necessary materials to support your application. You may be able to get legal advice from a lawyer ahead of time to make sure you are proceeding correctly and have all the right materials in their required form. Some lawyers will provide assistance with the preparation of these documents.
8. When you are attending a chambers application and the case is called, come forward to the counsel table at the front of the court room and tell the judge who you are. Always stand when you are addressing the judge. Refer to male judges as "My Lord" and female judges as "My Lady." Speak slowly in a clear voice with sufficient volume.
9. Be respectful to the judge, any counsel and the other party. Do not speak out of turn. Outbursts, inappropriate language and displays of temper will not be tolerated and could well influence the outcome of your application.

Step 8: Prepare the Court Order

You will have to prepare a written Order. The notes that you made in court will help you prepare the Order. You may also want a copy of the notes that the clerk made in court. You can obtain them for a fee from the Chambers Office.

8-1 Prepare the Order

There is a sample Variation Order on page 79. This sample order complies with the *Federal Child Support Guidelines.*

Add or remove paragraphs, or change the wording of the sample Order as necessary to reflect the Order given by the judge in court. Some sample additional terms are on page 89. These terms are just samples. You may need to change or adapt these sample terms to suit your own situation.

Note: If you need to add paragraphs or other terms you will need to re-type the sample Order.

Each of the terms of the Order should be in separate paragraphs, and numbered consecutively (1,2,3...).

The judge may not be prepared to sign an Order with handwritten paragraphs, paragraphs crossed off, or if significant changes have been made to the document. In this case, you will have to re-type the Order.

If the judge dismissed (or refused to grant) your application, you will still have to prepare a written Order. Sample Dismissal Orders are available where you received this booklet or on the Internet at www.albertacourts.ab.ca. After completing the Dismissal Order, make one copy of the Order, and bring the original and the copy to the Chambers Clerk for filing. The Chambers Clerk will arrange to have your order signed at a later time. One copy will be returned to you. If you want to have the Order mailed back to you, include a stamped, self-addressed envelope. **If the judge dismissed your application you do not have to complete the remaining steps in this booklet.**

8-2 Get the respondent to sign the Order

If the respondent was also in court, the respondent must sign the Order once it is prepared. This signature shows that the respondent agrees that the order that was prepared is what the judge ordered in court. The respondent's signature appears

below the line "Approved as to form and content." Please note that if the respondent is represented by a lawyer, the lawyer will sign the Order rather than the respondent.

If the respondent will not sign the Order, you may want to speak to a lawyer or a clerk to find out what other steps you can take.

8-3 Get the Order signed by the judge

Make four copies of the Order (a total of five with the original). Take the original and the four copies to the Chambers Office. The Chambers Clerk will arrange to have your Order signed at a later time. If the Order is signed, three copies will be returned to you.

If you want to have the Order mailed back to you, include a stamped, self-addressed 9" x 12" envelope. Include enough postage so that the Chambers Clerk can return three copies of the Order to you. Check with the post office to make sure that you have the correct postage by having the envelope weighed and stamped.

Step 9: Serve the Filed Order

9-1 Delivering the Order to the respondent

Serve a filed copy of the Order on the respondent using the same method as you used in Step 5.

9-2 Delivering the Order to the Director of Maintenance Enforcement

The Chambers Clerk will send a copy of the Order to the Director of Maintenance Enforcement (MEP). However, you may want to immediately provide a filed copy of the Order to MEP yourself so that they can act on it. The address for MEP is:

The Director of Maintenance Enforcement Program
7th Floor, J.E. Brownlee Building,
10365 - 97 Street
Edmonton, Alberta T5J 3Z7
phone: (780) 422-5554 or toll free in Alberta at 310-0000 and ask for (780) 422-5554
fax: (780) 422-1215

Step 10: Prepare and File an Affidavit of Service

Prepare an Affidavit of Service using the same method as you used in Step 6 and using the form on page 91.

Appendix 1: Explanation of Legal Terms

The following terms are used throughout this booklet and during the application process.

Action

A lawsuit or an application made in the courts. For example, when you apply to the court for a change in child support or to gain custody of a child, you are taking a legal action. You may take a legal action to enforce your rights or to correct a wrong done to you by another person. When an action is started, the court assigns it an action number. This number is then used in all of the documents related to the action filed with the court. See *Rules of Court: Rules 6-12* and *Rule 563.*

Affidavit

A written statement of facts that a person swears or affirms are true before a commissioner for oaths. The facts in the statement will be used as evidence in court. See definitions for evidence and fact. Affidavits may also be used to prove the identity of the person signing a document and to prove that you have delivered documents to another person. These types of Affidavits are called an Affidavit of Execution and an Affidavit of Service and are explained below. See *Rules of Court: Rules 298-314* and *Family Law Practice Note 3.*

Affidavit of Execution

This is a written statement in which a person swears or affirms that they witnessed another person signing a document and verifies the identity of the person signing.

Affidavit of Service

This is a written statement telling when, where and how documents have been served on another person, and how that person was found and identified. It is sworn or affirmed to and signed by the person who served the documents. See the definition for service.

Applicant

The person who is making an application to the court. See the definitions for respondent and application.

Application

Asking the court to make an Order. You can make several applications in the course of a court action. See the definitions for action, Notice of Motion and Order. See *Rules of Court: Rule 384-387 and 573-574* and *Family Law Practice Note 3.*

Approval as to Form and Content

Signing an Order that was not signed by the judge when the application was made. If an Order is not signed by the judge when the application is made, the respondent must sign the Order to show that they agree that the Order they receive is the same as the Order given by the judge in court. This does not mean that the person agrees with the Order. See the definition for consent. See *Rules of Court: Rule 323.1.*

Arrears

Any amount that has not been paid on a Support Order. If the monthly amounts ordered to be paid are not paid, they become arrears. Arrears can only be reduced by payment or by Order of the court.

Backer

The last page of a court document. It lists the action number, style of cause and your address on the right-hand side of the page. See definitions for action and style of cause.

Chambers (court)

A type of court where the judge makes a decision based upon affidavit evidence alone rather than oral testimony. Chambers applications usually take 10 to 20 minutes in total. If they are more complicated they should be scheduled for a special chambers date. At some court houses there is a separate chambers for family matters.

Chambers Clerk

Person in charge of reviewing and filing of court documents (notices of motion, affidavits, all related Court Orders, etc.), commissioning of affidavits for court matters, and processing documentation for scheduling of court lists. Can provide information on available court dates and filing deadlines.

Chambers Office / Clerk's Office

A department of the Court of Queen's Bench Clerk's Office. In smaller centres the chambers section may not be separately identified, but would be part of the Queen's Bench Clerk's Office. The Chambers Office deals with chambers matters only. See definition for Chambers Clerk for functions of the Chambers Office.

Clerk in Court

Person who organizes the court files and records the outcome of the court application for the judge. The clerk sits at the front of the court below the judge.

Commissioner for Oaths

Someone authorized by the province to swear or "commission" affidavits. Lawyers and court clerks are commissioners for oaths. Often banks and real estate offices have commissioners.

Consent

When a person voluntarily agrees to something proposed by another. If you sign an Order saying you are consenting to the Order, you are saying that you agree with everything that has been stated in the Order.

Consent Order

A Court Order signed by both parties showing they agree with everything that is in the Order.

Corollary Relief

Orders that may be granted at the time of divorce. Some examples of this are Orders related to custody, access and child support.

Costs

This is money that must be paid to another party or to the court. You may be ordered to pay costs if you are unsuccessful with your application or if you fail to attend a scheduled court date. See *Rules of Court: Schedule C.*

Court

In this booklet, court refers to the Alberta Court of Queen's Bench.

Defendant

The person responding to a court action. If you start a divorce action, you are the plaintiff and your spouse is the defendant.

Dismissal

A judge's refusal to grant an application.

Evidence

In court, the statements that are given under oath or the documents or other items that are shown to prove your case or disprove another person's case.

Exhibit

Any paper or document that is referred to, or mentioned, in an Affidavit. It should then be marked as an "Exhibit" and attached as a part of the Affidavit. See *Rules of Court: Rules 311-312.*

Fact

A thing that is known to have occurred, to exist, or to be true. It is a piece of factual evidence. See *Rules of Court: Rules 305(1).*

Federal Child Support Guidelines

These *Guidelines* are changes to the *Divorce Act* that were introduced on May 1, 1997. They are made up of rules and tables for calculating the amount of child support that should be paid based on income, number of children, and the province or territory of residence.

File / Filing

Giving documents to the court clerk to place on the court file. Any documents to be filed must have a backer, with the action number written on it, so that the clerk can find the file. See *Rules of Court: Rules 8-9.*

Gross

The total amount before any deductions. For example, gross income would be the total dollars that a person receives before any income taxes are deducted. The gross cost of daycare is the cost of daycare before any subsidies or income tax deductions are taken into account. See definition of net.

In Loco Parentis

A legal term for someone who is not a biological parent of a child but who acts like a parent to the child. The court may treat that person the same as a biological parent for custody and access rights. The court may also decide that the person has a financial responsibility to support the child.

Judge

In this booklet, judge means a Justice of the Court of Queen's Bench.

Judicial Districts

Locations of Courts of Queen's Bench. These include Grande Prairie, Peace River, Fort McMurray, St. Paul, Edmonton, Wetaskiwin, Red Deer, Calgary, Drumheller, Lethbridge and Medicine Hat. See the inside back cover of this booklet for addresses and phone numbers.

Maintenance Enforcement Program (MEP)

A provincial government department that is authorized to collect child and spousal support on behalf of the person entitled to receive the support. MEP may take steps such as garnishee (seizure) of bank accounts and pay cheques, seizure of assets, and suspension of driver's licences if support payments are not made voluntarily. MEP cannot reduce the amount of support payable, and MEP will not stop enforcing the Order unless instructed to do so either by the creditor or by the court. See definition of Stay of Enforcement.

Net

The amount after deductions. For example, net income refers to a person's income after income taxes are deducted. The net cost of daycare is the cost of daycare after any subsidies or income tax deductions are taken into account. See definition of gross.

Notice of Motion

A court form that is filed by the applicant. It tells the court and the respondent the date, time and place of the upcoming application, and everything the applicant will be asking the court for. See *Rules of Court: Rule 384.*

Notice to Disclose

A document that asks a person to provide financial information. See *Family Law Practice Note 2.*

Order

What the judge directed in court. The Order is then written up by the applicant and signed by the judge, or by the clerk of the court on the judge's behalf. See the definition for approval as to form and content. See *Rules of Court: Rules 315-330.*

Party

Someone who is directly involved in the court action or application. A party is either a plaintiff or defendant, or an applicant or respondent.

Petitioner

The person who starts a court action, for example, a divorce action. Divorces started before 1997 named the parties as petitioner and respondent. After 1997, they were named plaintiff and defendant.

Plaintiff

The person who starts a court action, for example a divorce action. See definition for defendant.

Respondent

A person who is responding to an application to the court. See definition for applicant.

Rules of Court

A book of rules that contains the basic procedures that must be followed for beginning and carrying out a court action.

Service

Delivering a document to the other party in an action or application. The documents must be served in a way that is described in the *Rules of Court* or allowed by the court in an Order for Substitutional Service. See *Rules of Court: Rules 13-26 and 564.*

Statement of Claim

A document that starts a court action unless stated otherwise in the *Rules of Court* or legislation. See *Rules of Court: Rule 6(1).*

Stay of Enforcement

An Order of the Court of Queen's Bench telling the Maintenance Enforcement Program to stop taking steps to collect any support that is still owed by a person. A Stay of Enforcement is often ordered for a limited time period, and is usually ordered with conditions imposed upon the person who is required to pay the support. For example, one condition may be that minimum monthly payments must be made or the Stay of Enforcement will end.

Statute

A law passed by the government. For example, the *Divorce Act* is a law passed by the federal government and the *Parentage and Maintenance Act* is a law passed by the provincial government.

Support Order

An Order made by a court directing that money be paid, usually on a monthly basis, for either spousal support or child support. The word "maintenance" can be used instead of "support." In the past, the term "alimony" was used to refer to spousal support.

Style of Cause

The part of any court document that identifies the type of court, and the place where the action will be heard (judicial district), the full names of the parties, and the name of the document. The style of cause is found at the top of the first page and on the backer of every court document filed. It must be exactly the same in all documents.

Substitutional Service Order

If it is impossible or impractical to serve the respondent personally with court documents, you may ask the court for an Order that will allow you to serve the respondent in a different way. The court may then grant a Substitutional Service Order. This defines how you can serve the respondent with the court documents. Examples of substitutional service are posting the document on the person's door, delivery by regular mail or courier, delivery to someone else who knows or lives with the person, or advertising in a newspaper. See *Rules of Court: Rule 23.*

Variation Order

A Court Order that changes the terms of an existing Court Order. See *Rules of Court: Schedule B, Form 19.*

Appendix 2: Sample Court Documents

What forms are included

The following forms are contained in this booklet:

- Notice of Motion (pages 27 - 33)
- Affidavit (pages 35 - 67)
- Affidavit of Service (Serving the Application) (pages 69 - 77)
- Variation Order (pages 79 - 89)
- Affidavit of Service (Service of the Order) (pages 91 - 99)

General Instructions for Completing Court Documents

- These forms have been developed for typical users. If your document is more complicated or requires more space, then you will have to re-type the form.
- All documents must be readable.
- Photocopy the forms you need from the booklet and work on the photocopies as your "rough copy." Keep the originals to prepare your final copy. You should read the form carefully before beginning to fill it out.
- Fill in all the blank lines with requested information, by either hand printing or typing, (except where signatures are required).
- Note that there is a style of cause (see Explanation of Legal Terms) at the top of the first page and on the backer of each form. Make sure that the style of cause on the first page is filled out in the same way as the one on the backer.
- The backer is the last sheet of the form. Fill in the backer with the requested information, making sure to include your court action number. The backer should be reversed so that the type faces out and is visible once the whole document is stapled together.

How to delete information from a document

- You must make sure every statement in your Affidavit is true. If there are paragraphs that do not apply to you or are not correct, you should cross them off.
- To cross off paragraphs, draw a straight horizontal line, in ink, through both the first and last lines of the paragraph, then draw a straight diagonal line joining these lines and forming a letter "Z."
- To cross off a single sentence, draw a horizontal line, in ink, through the middle of the sentence.
- Use a ruler to make your lines and initial any changes that you have made. **Make sure you put your initials at the beginning and at the end of every strikeout that you make.**
- You cannot use "white out" on any court documents. Any corrections or deletions must be neat and readable.

Notice of Motion
Family Law Application

Use this form to notify the court and the respondent about an upcoming application.

Before filing the Notice of Motion, make sure that you:

- ❑ include your full name and the respondent's full name in the form and on the backer
- ❑ include the date, time, and place of your application
- ❑ mark the box before each item that you are requesting from the court and fill in any blanks for those items
- ❑ do not check a box if you do not want the court to make that type of Order
- ❑ give a brief statement of your reasons for making this application
- ❑ fill in the date that you swore your Affidavit in support
- ❑ sign your name at the bottom of the form
- ❑ make four copies of the original (total of five with the original)

Action No: _____
YOUR COURT ACTION NUMBER

IN THE COURT OF QUEEN'S BENCH OF ALBERTA

IN THE JUDICIAL DISTRICT OF _____

BETWEEN:

_____
YOUR NAME
Applicant

- and -

_____
OTHER PARTY'S NAME
Respondent

NOTICE OF MOTION
FAMILY LAW APPLICATION

An application made by _____, will be heard at the Court
FULL NAME OF APPLICANT

House in _____, on _____, the _____ day of
CITY IN WHICH COURT HOUSE IS LOCATED WEEKDAY DATE

_____, 20____, at 10:00 a.m., for:
MONTH YEAR

❑ Declaring or ❑ Imputing the Respondent's income per year to be $_____.

❑ Declaring or ❑ Imputing the Applicant's income per year to be $_____.

❑ Child Support as follows:

1. Basic Guideline support per month of $ _____.
2. Additional s. 7 expenses per month of $ _____, based on yearly expenses of:
   - ❑ Child care expenses $ _____
   - ❑ Medical/dental premiums $ _____
   - ❑ Health related expenses $ _____
   - ❑ Extraordinary school expenses $ _____
   - ❑ Post-secondary education expenses $ _____
   - ❑ Extraordinary expenses for extracurricular activities $ _____

❑ Spousal support per month of $_____.

☐ Custody ☐ Sole
☐ Joint Custody

of the following children:

1. _____, born _____;
   FULL NAME MONTH/DAY/YEAR
2. _____, born _____;
3. _____, born _____;
4. _____, born _____;

☐ Access to the following children:

1. _____, born _____;
   FULL NAME MONTH/DAY/YEAR
2. _____, born _____;
3. _____, born _____;
4. _____, born _____;

to be exercised as follows:

_____

_____

_____

_____

☐ Exclusive possession of the following property:

_____

_____

_____

☐ Other:

_____

[SET OUT ANYTHING ELSE YOU ARE REQUESTING]

_____

The Applicant relies on the following grounds or reasons:

_____

[PROVIDE A BRIEF STATEMENT OF YOUR REASONS FOR BRINGING THIS APPLICATION]

_____

_____

If you do not appear, an order may be made in your absence.

The Applicant has filed an Affidavit in support of this application, sworn on the

_____ day of _____, 20____.
DATE MONTH YEAR

_____
Signature of the Applicant

IMPORTANT NOTICE TO RESPONDENT:

If you want to respond to this application, you or your lawyer must attend in the Court House on the date and at the time specified.

If you want to present any evidence to the Judge hearing this application you must:

- make an Affidavit, sworn or affirmed as true before a Commissioner for Oaths or Notary Public;
- file the Affidavit with the Clerk of the Court;
- make sure the Applicant's lawyer (or the Applicant if he or she does not have a lawyer) receives the Affidavit ***at least 24 hours before the hearing***.

Action No: _____
YOUR COURT ACTION NUMBER

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
IN THE JUDICIAL DISTRICT OF

_____

BETWEEN:

_____
YOUR NAME
Applicant

- and -

_____
OTHER PARTY'S NAME
Respondent

NOTICE OF MOTION
FAMILY LAW APPLICATION

_____
YOUR NAME

_____
YOUR ADDRESS

_____

_____
YOUR PHONE NUMBER

Affidavit

Use this form to present all of the facts that are necessary about your application.

Before filing the Affidavit, make sure that you:

- ❑ include your full name and the respondent's full name in the form and on the backer
- ❑ fill in the paragraphs that apply to you and cross off the paragraphs that don't
- ❑ add any other facts you feel are necessary to support your application. Some sample clauses are on page 67. These clauses are just samples. You may need to print or type other clauses in order to present all the facts in your own case.
- ❑ number all of your paragraphs consecutively (1, 2, 3, 4...)
- ❑ letter each one of your exhibits consecutively (Exhibit A, Exhibit B...)
- ❑ make three copies of the original Affidavit, including all exhibits (total of four with the original)

Use a ruler when crossing off the paragraphs that don't apply to you. Cross them out by drawing a straight line through the first and last lines and a diagonal line joining them to form a "Z." Make sure that you put your initials at the beginning and at the end of every strikeout that you make. You cannot use "white out".

Note: You cannot make changes to your Affidavit once it has been sworn.

Attach all exhibits at the end of your Affidavit just before the backer.

Action No: _____
YOUR COURT ACTION NUMBER

IN THE COURT OF QUEEN'S BENCH OF ALBERTA

IN THE JUDICIAL DISTRICT OF _____

BETWEEN:

_____
YOUR NAME

Applicant

- and -

_____
OTHER PARTY'S NAME

Respondent

AFFIDAVIT

I, _____, of the _____ of _____
YOUR NAME 'CITY' OR 'TOWN' OR OTHER NAME OF CITY, TOWN, ETC

in the Province of Alberta, MAKE OATH AND SAY THAT:

1. I am the Applicant herein and as such have a personal knowledge of the following information, except where stated to be based on information and belief in which case I do believe it to be true.

What You are Asking For

2. I am asking the Court for an Order:
   Check and complete all that apply
   ❑ Declaring or ❑ Imputing the Respondent's income per year to be $_____.
   ❑ Declaring or ❑ Imputing the Applicant's income per year to be $_____.

   ❑ Increasing or ❑ Decreasing Child Support as follows:
      1. Basic Guideline support per month of $ _____ for ____ children.
      2. Additional s. 7 expenses per month of $ _____ for ____ children.

   ❑ Changing Spousal Support as follows:

   _____
   GIVE DETAILS OF PROPOSED CHANGE IN SPOUSAL SUPPORT

   _____

   _____

   _____

   _____

History of Your Relationship

3. Check one only:

- ☐ I am married to the Respondent.
- ☐ I am divorced from the Respondent.
- ☐ I have lived common-law with the Respondent from _____ (DATE)

  to _____ (DATE) .

4. Check one only:

- ☐ We separated on _____ (MONTH/DAY/YEAR).
- ☐ We were divorced on _____ (MONTH/DAY/YEAR).

Information about Your Children

5. We have the following children: (i) _____ (NAME), born _____ (MONTH/DAY/YEAR)

   (ii) _____, born _____

   (iii) _____, born _____

   (iv) _____, born _____

   Referred to from now on as "the children"

   Change the following paragraphs to suit your own parenting situation — provide details.

6. Check the types of custody that apply:

- ☐ Sole Custody
  - ☐ The children live with me.
  - ☐ The children live the Respondent.
- ☐ Split Custody

  The following children live with me:

  _____, (NAMES OF CHILDREN)

  and the following children live with the Respondent:

  _____ (NAMES OF CHILDREN)
- ☐ Shared Custody as defined by Section 9 of the *Federal Child Support Guidelines*
  - ☐ We have shared custody of the children
  - ☐ We have shared custody of the following children:

    _____ (NAMES OF CHILDREN)

Give details about the time each of you has access to or physical custody of the children over the course of the year:

_____

_____

_____

_____

_____

_____

Information about your Court Order for Child and Spousal Support

Give details about the Order you are asking the Court to change.

7. An Order for child and spousal support was granted on _____ by the
MONTH/DAY/YEAR

Honourable Justice/Judge _____.

Attached and marked as Exhibit '____' to this my Affidavit is a copy of this Order.

8. Check the boxes that apply:

- ☐ Under the above Order I have to pay $_____ per month for support of the children.
- ☐ Under the above Order the Respondent has to pay $_____ per month for support of the children.
- ☐ Under the above Order I have to pay $_____ per month and/or a lump sum of $_____ for spousal support.
- ☐ Under the above Order the Respondent has to pay $_____ per month and/or a lump sum of $_____ for spousal support.

Changes in Circumstances

9. Since the time the Order was granted, there has been the following change of circumstances that would affect the monthly support:
(List everything that has changed since the date of the last Order for child and spousal support. Each change should be in a separate lettered paragraph. This may include any change of circumstances as provided for in the Federal Child Support Guidelines.)

(a) _____

_____

(b) _____

_____

_____

_____

_____

_____

_____

Income of Applicant

10. Choose one only:

❑ I am employed at _____
NAME AND ADDRESS OF EMPLOYER

_____
POSITION LENGTH OF TIME IN THIS POSITION

❑ I am self-employed at _____
NAME AND PLACE OF BUSINESS

_____
LENGTH OF TIME IN BUSINESS

❑ I have been unemployed since _____ and details of my
MONTH/DAY/YEAR

unemployment are:

(Give details, including prospects of employment, any benefits you are receiving, steps you are taking to find employment, or if in school, type of program and expected completion date.)

_____

_____

_____

_____

11. I am a ❑ shareholder ❑ director ❑ officer of a corporation.
Attached and marked collectively as Exhibit '____' to this my Affidavit are copies of the financial statements of this corporation for each of the last 3 years.

12. Attached and marked collectively as Exhibit '____' to this my Affidavit are copies of my T1 General forms and Notices of Assessment and Reassessment from Canada Customs and Revenue Agency for each of the 3 most recent taxation years (or a copy of a Canada Customs and Revenue Agency printout of my income tax returns for the last 3 years).

13. Attached and marked collectively as Exhibit '____' to this my Affidavit are copies of my 3 most recent pay remittance stubs (or statement from my employer outlining my gross pay and deductions for the year to date, and my rate of annual salary).

14. Attached and marked collectively as Exhibit '____' to this my Affidavit are copies of:
(Attach any other relevant documents to support the guideline income calculation such as student finance information or the most recent statements of income from employment insurance, social assistance, pension, disability, or workers compensation — and including any documents required by section 21 of the Guidelines.)

_____

_____

_____

_____

15. I calculate my annual guideline income to be $_____, determined as follows:

All sources of my gross income		**Annual Amounts**
Employment income	+	$ _____
Employment insurance benefits	+	$ _____
Social assistance attributable to spouse only	+	$ _____
Other: _____ SPECIFY	+	$ _____
Total annual gross income:	=	$ _____
Guideline adjustments to total income:		
Deduct: professional and union dues	-	$ _____
Other guideline adjustments: _____ SPECIFY	-/+	$ _____
Total annual adjustments to income:	-/+	$ _____
Guideline Income (total of gross income and adjustments):	=	$ _____

16. Choose one only:

- ❑ I do not expect any significant changes in my employment situation.
- ❑ I expect the following changes in my employment situation:

_____
DESCRIBE CHANGES, INCLUDING EXPECTED RAISES OR CHANGES IN SALARY

_____

_____

17. I have the following education:

_____

_____

_____

18. I have worked the following jobs:

_____

_____

_____

19. I am trained to do the following types of work:

_____

_____

_____

20. Choose one only:

❑ I am in good health.

❑ I suffer from an illness or disability which affects my ability to work. *(give details)* _____

_____

_____

Attached and marked as Exhibit '____' to this my Affidavit is a copy of a letter or report from my Doctor which describes my condition.

21. Attached and marked as Exhibit '____' to this my Affidavit is a Statement of my Assets and Liabilities.

22. Attached and marked as Exhibit '____' to this my Affidavit is a statement of my monthly budget.

Income of Respondent

23. Choose one only:

❑ The Respondent is employed.

❑ The Respondent is self-employed.

Details of his/her employment/self-employment are (provide if known):

_____
NAME AND ADDRESS OF EMPLOYER OR PLACE OF BUSINESS

_____
POSITION LENGTH OF TIME IN THIS POSITION

❑ The Respondent has been unemployed since _____ and details of his/her unemployment are:
MONTH/DAY/YEAR

(Give details, if known, including prospects of employment, any benefits the Respondent is receiving, steps he/she is taking to find employment, or if in school, type of program and expected completion date.)

_____

_____

_____

_____

24. The Respondent is a ❑ shareholder ❑ director ❑ officer of a corporation. Attached and marked collectively as Exhibit '___' to this my Affidavit are copies of the financial statements of this corporation for each of the last 3 years.

25. Attached and marked collectively as Exhibit '____' to this my Affidavit are copies of the Respondent's T1 General forms and Notices of Assessment and Reassessment from Canada Customs and Revenue Agency for each of the 3 most recent taxation years (or a copy of a Canada Customs and Revenue Agency printout of his/her income tax returns for the last 3 years).

26. Attached and marked collectively as Exhibit '____' to this my Affidavit are copies of the Respondent's 3 most recent pay remittance stubs (or statement from his/her employer outlining his/her gross pay and deductions for the year to date, and his/her rate of annual salary).

27. Attached and marked collectively as Exhibit '____' to this my Affidavit are copies of (*Attach any other relevant documents to support the guideline income calculation for the Respondent such as student finance information or the most recent statements of income from employment insurance, social assistance, pension, disability, or workers compensation — and including any documents required by section 21 of the Guidelines.)*

_____

_____

_____

_____

28. I calculate the Respondent's annual guideline income to be $ _____, determined as follows:

All sources of Respondent's gross income		**ANNUAL AMOUNTS**
Employment income	+	$ _____
Employment insurance benefits	+	$ _____
Social assistance attributable to spouse only	+	$ _____
Other: _____ SPECIFY	+	$ _____
Total annual gross income:	=	$ _____

Guideline adjustments to total income:		
Deduct: professional and union dues	-	$ _____
Other guideline adjustments: _____ SPECIFY	-/+	$ _____
Total annual adjustments to income:	-/+	$ _____
Guideline Income (total of gross income and adjustments):	=	$ _____

29. ☐ I have served a Notice to Disclose on the Respondent but the Respondent has failed to provide me with the required information.

☐ I ask the court to impute (consider as part of) income to the Respondent in the annual sum of $_____ for the following reasons:

_____

_____

_____

_____

_____

OR

☐ There is a court order granted by the Honourable Justice _____ (NAME OF JUSTICE)

on _____ (MONTH/DAY/YEAR) declaring the Respondent's guideline income to be $_____. (AMOUNT IN THE ORDER)

'Add-on' or Special Expenses

30. I am claiming the following special expenses for the children:

		Gross Annual Amounts
Child care expenses (daycare/babysitting)		$ _____
Children's portion of medical or dental premiums		$ _____
Health-related expenses in excess of $100 annually per illness or event, net of reimbursement		$ _____
Extraordinary expenses for primary/secondary school		$ _____
Expenses for post-secondary education		
Tuition amount	$ _____	$ _____
Extraordinary expenses for extracurricular activities		$ _____

Give any more details of each expense, including any contribution from child, the name of child that each expense is for, and the nature of each expense:

(If you are attaching any receipts, they must be marked as exhibits)

_____

_____

_____

_____

31. I believe the above special expenses are necessary and reasonable for the following reasons:

_____

_____

_____

Attach any supporting material, and mark it as an exhibit.

32. I disagree with the following special or extraordinary expenses that the Respondent is claiming:

_____
IDENTIFY THE SPECIAL EXPENSES THAT YOU DISAGREE WITH

_____

_____

_____

I disagree with these expenses for the following reasons:

_____

_____

_____

_____

Medical or Dental Insurance Coverage

33. Choose one only:

❑ I do not have health benefit coverage available to me for the children.

❑ I have health benefit coverage available to me for the children.
Details of the plan are:

_____
GIVE DETAILS OF COVERAGE AND COST OF THE PLAN

_____

_____

Choose one only:

❑ The Respondent does not have health benefit coverage available to him/her for the children.

❑ The Respondent has health benefit coverage available to him/her for the children and I am asking that he/she gets or keeps this coverage for the children. Details of the plan are:

_____
GIVE DETAILS OF COVERAGE AND COST OF THE PLAN

_____

_____

Other Facts

Add any other facts, in separate numbered paragraphs (starting with #34), continuing from your last numbered paragraph. Continue your list of facts onto the last (signature) page of the Affidavit.

See the sample clauses on page 67 for certain special circumstances.

OPTIONAL ADDITIONAL PAGE - MAKE SURE YOUR CLAUSES CONTINUE ONTO SIGNATURE PAGE

__. _____
_____
_____
_____

__. _____
_____
_____
_____

__. _____
_____
_____
_____

__. _____
_____
_____
_____

__. _____
_____
_____
_____

__. _____
_____
_____
_____

SWORN BEFORE ME at the _____)
of _____, in the Province)
of Alberta, this _____ day of _____, _____)
) _____
) YOUR SIGNATURE
_____)
A COMMISSIONER FOR OATHS IN)
AND FOR THE PROVINCE OF ALBERTA

ASSETS AND LIABILITIES

ASSETS:

Description of asset:	In whose name:	Current market value:	Debt registered against asset:	Date asset was acquired:
Home				
RRSPs				
Savings				
vehicles				
pension				
investments				
household goods and furnishings				
insurance				
business interests				
income tax refund				
Other: (specify)				

DEBTS:

1. Banks (specify)	Amount:	2. Credit Cards (specify):	Amount:
	$		$
	$		$
	$		$
3. Finance Companies (specify)	**Amount:**	**4. Other (specify):**	**Amount:**
	$		$
	$		$
	$		$

MONTHLY BUDGET OF INCOME AND EXPENSES

employment income	$	income tax	$
employment insurance benefits	$	union dues	$
social assistance for family	$	employment insurance	$
student loans	$	Canada Pension Plan	$
Child Tax Benefit	$	other pension plans	$
other (specify)	$	payroll savings plan	$
	$	other (specify)	$
	$		$
A. Total income from all sources:	$_____	**B. Total deductions:**	$_____
C. Net income (A minus B)	$_____		

MONTHLY EXPENSES:

food, groceries, household supplies	$	children's activities, lessons (specify)	$
meals outside the home	$		$
clothing	$		$
laundry, dry cleaning	$	school expenses	$
Rent or mortgage	$		$
property taxes	$		$
home insurance	$	day care, babysitting	$
cable	$	children's allowance, gifts	$
telephone	$	newspapers, subscriptions	$
utilities	$	alcohol, tobacco	$
home maintenance	$	savings for future	$
medical, dental insurance	$	education savings	$
medical, dental not covered	$	vacation	$
public transportation	$	loans (specify)	$
vehicle (loan, gas, ins., etc.)	$		$
haircuts, personal care	$	Other: (specify)	$
entertainment, recreation	$		$
		D. Total Monthly Expenses	$_____

Summary: Net Monthly Income **(C)** $_____

Less: Total Monthly expenses **(D)** $_____

(C minus D) Balance: +/- $_____

Insert the Exhibits for your Affidavit here

Make sure the exhibits are labelled alphabetically in the order in which they appear in the Affidavit.

Put them in the same order when inserting them here.

Action No: _____
YOUR COURT ACTION NUMBER

IN THE COURT OF QUEEN'S BENCH OF ALBERTA IN THE JUDICIAL DISTRICT OF

_____

BETWEEN:

_____
YOUR NAME
Applicant

- and -

_____
OTHER PARTY'S NAME
Respondent

_____

AFFIDAVIT

_____

_____
YOUR NAME

_____
YOUR ADDRESS

_____

_____
YOUR PHONE NUMBER

Sample Clauses to Include in Your Affidavit

The following paragraphs are some example clauses that may fit your case. Change or adapt these examples to suit your own situation. You will have to write your own clauses that reflect the facts in your own case.

Note: These clauses are not actual legal advice. They simply show you how to present information that may be needed in special circumstances. These samples do not replace your need to get legal advice.

__. **[Shared Custody]**
I have the following increased costs because of the shared custody arrangement:

(Give details.)

__. **[Children over the age of majority]**
I give the following information about the children over 18:

(Include child's income or ability to earn income, availability of school loans or grants, and expenses of child, including breakdown of any post-secondary education expenses.)

__. **[Spouse in place of a parent]**
The Respondent stands in place of the natural father/mother (choose one throughout) of the children. The natural father/mother of the children gives me monthly child support in the sum of $ _____.

I stand in place of the natural father/ mother (choose one throughout) of the children. The natural father/ mother of the children gives the Respondent monthly child support in the sum of $ _____.

__. **[Undue hardship]**
I am claiming undue hardship. I (and/or the children) suffer from undue hardship due to the following circumstance(s):

(Give details of any circumstances of undue hardship, including the expected time that any of these circumstances will end. For possible circumstances, see S.10 of the Guidelines, and the booklet *Information for Unrepresented Parties about Child Support Matters.*)

Other example clauses could include:

__. In addition to the children of the marriage, I live with ___ adult(s) and ___ other children. (give numbers). The other adult(s) earn $_____ gross per year.

__. I pay/receive (choose one) child support for other children in the amount of $_____ per month pursuant to a Court Order or written Agreement.

__. The other party lives with ___ adult(s) and ___ other children. (give numbers)

__. The other adult(s) earn $_____ gross per year. (if unknown, give any employment details of the other adults)

__. The other party pays/receives (choose one) child support for other children in the amount of $_____ per month pursuant to a Court Order or written Agreement.

__. My household has a lower standard of living than the household of the other party. My household income ratio is _____, and his/hers is _____. (give the ratio from the standards of living test) Attached and marked as Exhibit '____' to this my Affidavit is a copy of the comparison of household standards of living test calculated in accordance with Schedule II of the Federal Child Support Guidelines.

[optional]
__. My household has a lower standard of living than the household of the other party, as evidenced by the following:

Affidavit of Service (Serving the Application)

Use this form to explain when and where the respondent received a copy of your application. It is the person who served the respondent who must provide the information about service and sign the Affidavit of Service in front of a commissioner for oaths.

Before filing the Affidavit of Service, make sure that:

- ❑ you include your full name and the respondent's full name in the form and on the backer
- ❑ the paragraphs that apply to you are filled in and the paragraphs that do not apply to you are crossed off
- ❑ the original Notice of Motion and one copy each of the Affidavit, Review Memo and Child Support Summary Sheet(s) are attached, as well as the Delivery Confirmation Record and Acknowledgement of Receipt if you served by registered mail, as exhibits
- ❑ each one of the exhibits is lettered consecutively (Exhibit A, Exhibit B...)
- ❑ the person who served the documents signs the Affidavit of Service in front of a commissioner for oaths
- ❑ you make one copy of the original Affidavit of Service, including all exhibits

Use a ruler when crossing off the paragraphs that don't apply to you. Cross them out by drawing a straight line through the first and last lines and a diagonal line joining them to form a "Z." The person signing the Affidavit of Service must put his/her initials at the beginning and at the end of every strikeout.

Attach all exhibits at the end of the Affidavit just before the backer.

Action No: _____
YOUR COURT ACTION NUMBER

IN THE COURT OF QUEEN'S BENCH OF ALBERTA

IN THE JUDICIAL DISTRICT OF _____

BETWEEN:

_____
YOUR NAME
Applicant

- and -

_____
OTHER PARTY'S NAME
Respondent

AFFIDAVIT OF SERVICE

I, _____ , of the _____ of _____,
NAME OF DOCUMENT SERVER 'CITY' OR 'TOWN' OR OTHER NAME OF CITY OR TOWN ETC.
in the Province of Alberta, MAKE OATH AND SAY:

1. That I am an adult person.

2. That I did on the _____ day of _____, _____, personally serve
DATE OF SERVICE MONTH OF SERVICE YEAR
_____, the Respondent, with a true copy of
OTHER PARTY'S NAME
the Notice of Motion and Affidavit, which are annexed and marked respectively as Exhibits 'A' and'B' to this my Affidavit, and a copy of the Review Memo and Child Support Summary Sheet(s) which are annexed and marked collectively as Exhibit 'C' to this my Affidavit, by delivering the said copies to and leaving the same with
_____, the Respondent, at
OTHER PARTY'S NAME
_____.
FULL ADDRESS WHERE OTHER PARTY WAS SERVED

OR

2. That I did on the _____ day of _____, _____, personally serve
DATE OF SERVICE MONTH OF SERVICE YEAR
_____, the Respondent, with a
OTHER PARTY'S NAME
true copy of the Notice of Motion and Affidavit, which are annexed and marked respectively as Exhibits 'A' and 'B' to this my Affidavit, and a copy of the Review Memo and Child Support Summary Sheet(s) which are annexed and marked

collectively as Exhibit 'C' to this my Affidavit, by enclosing such copies in an envelope addressed to _____, the Respondent, at:
OTHER PARTY'S NAME

_____.
FULL ADDRESS OF OTHER PARTY

and posting the same by registered mail at:

_____,
ADDRESS OF POST OFFICE WHERE YOU MAILED THE MATERIAL

and annexed and marked as Exhibits 'D' and 'E' to this my Affidavit are the Delivery Confirmation Record and the Acknowledgement of Receipt for such registered mail.

SWORN BEFORE ME at the _____

of _____, in the Province

of Alberta, this ___ day of _____, _____. _____
SIGNATURE OF DOCUMENT SERVER

_____
A COMMISSIONER FOR OATHS IN
AND FOR THE PROVINCE OF ALBERTA

Insert your Exhibits here

These include:

Exhibit 'A' Notice of Motion

Exhibit 'B' Affidavit

Exhibit 'C' Review Memo and Child Support Summary Sheet(s)

For service by registered mail:

Exhibit 'D' Delivery Confirmation Record

Exhibit 'E' Acknowledgement of Receipt

Make sure the exhibits are labelled alphabetically in the order in which they appear in the Affidavit.

Put them in the same order when inserting them here.

Action No: _____
YOUR COURT ACTION NUMBER

IN THE COURT OF QUEEN'S BENCH OF ALBERTA IN THE JUDICIAL DISTRICT OF

_____

BETWEEN:

_____
YOUR NAME
Applicant

- and -

_____
OTHER PARTY'S NAME
Respondent

_____

AFFIDAVIT OF SERVICE

_____

_____
YOUR NAME

_____
YOUR ADDRESS

_____

_____
YOUR PHONE NUMBER

Variation Order

Use this form to prepare the Order made by the judge.

Make sure that:

- ❑ your full name and the respondent's full name are included in the form and on the backer
- ❑ you fill in the guideline incomes and the children's names and dates of birth
- ❑ you fill in paragraph 1 with information about the Judgment/Order that this Order changes
- ❑ you include all of the terms of the Order
- ❑ you add or cross off paragraphs, or change the wording of the sample Order as necessary to reflect the Order given by the judge in court. Sample terms are on page 89. These terms are just samples. If you need to add paragraphs or other terms you will need to re-type the sample Order
- ❑ the Order states whether the respondent appeared in court or not - by crossing off the paragraph that does not apply (found before the terms/numbered paragraphs of the Order).
- ❑ if the respondent was in court, that the respondent has signed his/her signature on the Order below the line "Approved as to form and content". If the respondent was not in court, you can cross off this paragraph in the Order.
- ❑ you number all of your paragraphs consecutively (1, 2, 3, 4)
- ❑ you make four copies of your Order (total of five with the original) and take them to the Chambers Office.

Use a ruler when crossing off the paragraphs that don't apply to you. Cross them out by drawing a straight line through the first and last lines and a diagonal line joining them to form a "Z." Make sure that you put your initials at the beginning and at the end of every strikeout that you make. You cannot use "white out".

The judge may not be prepared to sign an Order with crossed off sections or handwritten paragraphs. In this case, you will have to re-type the Order. Also, a judge's signature cannot appear on a page by itself.

Action No: _____
YOUR COURT ACTION NUMBER

IN THE COURT OF QUEEN'S BENCH OF ALBERTA

IN THE JUDICIAL DISTRICT OF _____

BETWEEN:

_____
YOUR NAME
Applicant

- and -

_____
OTHER PARTY'S NAME
Respondent

BEFORE THE HONOURABLE) ON _____, THE _____
WEEKDAY DATE

MADAM/MR. JUSTICE _____) DAY OF _____, _____
MONTH YEAR

COURT HOUSE,_____, ALBERTA)

VARIATION ORDER

UPON THE APPLICATION of the Applicant; AND UPON READING the materials filed on behalf of the Applicant; AND HEARING representations by the Applicant;

AND UPON READING the materials filed on behalf of the Respondent; AND HEARING representations by the Respondent;

OR

AND UPON the Respondent not appearing in person or by agent;

AND UPON the Respondent having been found to have a guideline income of $_____ and the Applicant to have a guideline income of $_____.

AND UPON the Court being advised that the name and birth date of each child of the relationship is as follows:

_____, born _____
NAME MONTH/DAY/YEAR

_____, born _____

_____, born _____

_____, born _____

IT IS HEREBY ORDERED THAT:

1. The Judgment/order granted _____ (DATE), _____ (YEAR) by the Honourable Madam/Mr. Justice _____ is hereby varied to delete paragraphs _____ and _____ of the said Judgment/order.

2. The amounts owing under this Order be paid to the Director of Maintenance Enforcement, at 10365 - 97 Street, 7th floor, Edmonton, Alberta, and shall be enforced by the Director unless the creditor files with the Court and the Director a Notice, in writing, that he/she does not wish the Order to be enforced by the Director pursuant to Section 7 of the *Maintenance Enforcement Act*.

3. Spousal Support Clause

_____ (FULL NAME) shall pay to

_____ (FULL NAME) the sum of $ _____

per month for spousal support, payable on the 1st day of each and every month, commencing _____ (MONTH) 1, _____ (YEAR).

4. Standard Child Support Payment Clause

_____ (FULL NAME) shall pay to

_____ (FULL NAME) the sum of $ _____

per month for the support of the child(ren) of the marriage:

_____
NAME(S) OF CHILD(REN)

payable on the 1st day of each and every month, commencing _____ (MONTH) 1, _____ (YEAR).

5. Add-on or Special Expenses

_____ (FULL NAME) shall pay to

_____ (FULL NAME) the sum of $ _____ per month for additional expenses for the said child(ren) of the marriage, payable on the 1st day of each and every month, commencing _____ (MONTH) 1, _____ (YEAR), allocated as follows:

Child	Nature of Add-on	Amount or Percentage
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

_____
JUSTICE OF THE COURT OF QUEEN'S
BENCH OF ALBERTA

APPROVED AS TO FORM AND CONTENT:

_____
SIGNATURE OF RESPONDENT

ENTERED THIS _____ DAY OF,

_____, _____

_____
CLERK OF THE COURT

Action No: _____
YOUR COURT ACTION NUMBER

IN THE COURT OF QUEEN'S BENCH OF ALBERTA IN THE JUDICIAL DISTRICT OF

_____

BETWEEN:

_____
YOUR NAME
Applicant

- and -

_____
OTHER PARTY'S NAME
Respondent

_____

VARIATION ORDER

_____

_____
YOUR NAME

_____
YOUR ADDRESS

_____

_____
YOUR PHONE NUMBER

Sample Clauses to Include in Your Order

The following paragraphs are some example clauses that may fit your case.

Change or adapt these examples to suit your own situation. You will have to write your own clauses that reflect the Order given by the judge in court.

Note: These clauses are not actual legal advice. They simply show you how to present information that may be needed in special circumstances. These samples do not replace your need to get legal advice.

__. [Medical and Dental Coverage]

_____
FULL NAME

shall provide medical and dental insurance coverage for the child(ren) of the marriage.

__. [Child Over Age of Majority]

_____ shall pay to
FULL NAME

_____ the sum of
FULL NAME

$ _____ per month for

_____, a child of
NAME OF CHILD

the marriage over the age of majority, payable on the 1st day of each month, commencing _____ 1, _____
MONTH YEAR

__. [Undue Hardship]

_____ having satisfied
FULL NAME

the Court that payment of the full amount of child support prescribed in the Federal Child Support Guidelines would cause _____
FULL NAME

undue hardship due to [set out all circumstances of undue hardship]: shall pay to _____ for the
FULL NAME

support of the child(ren) of the marriage, _____
NAME(S) OF CHILD(REN)

the sum of $ _____ per month, payable on the 1st day of each month commencing _____ 1, _____
MONTH YEAR

up to and including _____ 1, _____.
MONTH YEAR

[and]

__. The child support shall be revisited in

_____ of _____, it being
MONTH YEAR

determined that the cause of the undue hardship should be eliminated by that date.

[or]

__. It is further ordered that commencing the _____ day of _____, _____,
DATE MONTH YEAR

_____ shall pay
FULL NAME

the amounts prescribed by the guidelines, namely _____.

__. [Spousal Support]

__. Spousal support shall terminate on the _____ day of _____, _____
DATE MONTH YEAR

unless otherwise ordered by this court.

[or]

__. Spousal support shall terminate upon the happening of any of the following events:

_____
_____
_____

[or]

__. _____ shall pay to
FULL NAME

_____ spousal
FULL NAME

support in the lump sum of $_____, payable on or before the _____ day
DATE

of _____, _____.
MONTH YEAR

Affidavit of Service (Service of the Order)

Use this form to explain when and where the respondent received a copy of the Order made by the judge. It is the person who served the respondent who must provide the information about service and sign the Affidavit of Service in front of a commissioner for oaths.

Before filing the Affidavit of Service, make sure that:

- ❑ you include your full name and the respondent's full name in the form and on the backer
- ❑ the paragraphs that apply to you are filled in and the paragraphs that do not apply to you are crossed off
- ❑ one filed copy of the Order is attached, as well as the Delivery Confirmation Record and Acknowledgement of Receipt if you served by registered mail, as exhibits
- ❑ each one of the exhibits is lettered consecutively (Exhibit A, Exhibit B...)
- ❑ the person who served the documents signs the Affidavit of Service in front of a commissioner for oaths
- ❑ you make one copy of the original Affidavit of Service, including all exhibits

Use a ruler when crossing off the paragraphs that don't apply to you. Cross them out by drawing a straight line through the first and last lines and a diagonal line joining them to form a "Z." The person signing the Affidavit of Service must put his/her initials at the beginning and at the end of every strikeout.

Attach all exhibits at the end of the Affidavit just before the backer.

Action No: _____
YOUR COURT ACTION NUMBER

IN THE COURT OF QUEEN'S BENCH OF ALBERTA

IN THE JUDICIAL DISTRICT OF _____

BETWEEN:

_____
YOUR NAME
Applicant

- and -

_____
OTHER PARTY'S NAME
Respondent

AFFIDAVIT OF SERVICE

I, _____, of the _____ of _____,
NAME OF DOCUMENT SERVER 'CITY' OR 'TOWN' OR OTHER NAME OF CITY OR TOWN ETC.
in the Province of Alberta, MAKE OATH AND SAY:

1. That I did on the _____ day of _____, _____, personally serve
DATE OF SERVICE MONTH OF SERVICE YEAR
_____, the Respondent, with a true copy of the
OTHER PARTY'S NAME
Order, which is annexed and marked as Exhibit 'A' to this my Affidavit, by delivering the said copy to and leaving the same with _____,
OTHER PARTY'S NAME
the Respondent, at:
_____.
FULL ADDRESS WHERE OTHER PARTY WAS SERVED

OR

1. That I did on the _____ day of _____, _____ , personally serve
DATE OF SERVICE MONTH OF SERVICE YEAR
_____, the Respondent, with a true copy of the
OTHER PARTY'S NAME
Order, which is annexed and marked as Exhibit 'A' to this my Affidavit, by enclosing the said copy in an envelope addressed to _____,
OTHER PARTY'S NAME
the Respondent, at:
_____
FULL ADDRESS OF OTHER PARTY
and posting the same by registered mail at:
_____,
ADDRESS OF POST OFFICE WHERE YOU MAILED THE MATERIAL

and anxed and marked as Exhibits 'B' and 'C' to this my Affidavit are the Delivery Confirmation Record and the Acknowledgement of Receipt for such registered mail.

SWORN BEFORE ME at the _____

of _____, in the Province

of Alberta, this ___ day of _____, _____. _____

SIGNATURE OF DOCUMENT SERVER

_____

A COMMISSIONER FOR OATHS IN
AND FOR THE PROVINCE OF ALBERTA

Insert your Exhibits here

These include:

Exhibit 'A' Order

For service by registered mail:

Exhibit 'B' Delivery Confirmation Record

Exhibit 'C' Acknowledgement of Receipt

Make sure the exhibits are labelled alphabetically in the order in which they appear in the Affidavit.

Put them in the same order when inserting them here.

Action No: _____
YOUR COURT ACTION NUMBER

IN THE COURT OF QUEEN'S BENCH OF ALBERTA IN THE JUDICIAL DISTRICT OF

_____

BETWEEN:

_____
YOUR NAME
Applicant

- and -

_____
OTHER PARTY'S NAME
Respondent

_____

AFFIDAVIT OF SERVICE

_____

_____
YOUR NAME

_____
YOUR ADDRESS

_____

_____
YOUR PHONE NUMBER

Queen's Bench Chambers Offices (or Clerk's Offices)

Calgary
611 - 4th Street SW
Tel: 403-297-7405

Drumheller
511- 3rd Ave. West
Tel: 403-823-1700

Edmonton
1A Sir Winston Churchill Sq.
Tel: 780-422-2418

Fort McMurray
9700 Franklin Avenue
Tel: 780-743-7136

Grande Prairie
10260 - 99 Street
Tel: 780-538-5340

Lethbridge
320 - 4th Street South
Tel: 403-381-5196

Medicine Hat
460 First Street SE
Tel: 403-529-8710

Peace River
9905 - 97 Avenue
Tel: 780-624-6256

Red Deer
4909 - 48 Avenue
Tel: 403-340-5220

St. Paul
4704 - 50 Street
Tel: 780-645-6324

Wetaskiwin
4605 - 51 Street
Tel: 780-361-1258

Assistance in Obtaining Legal Advice

Dial a Law - Lawyer Referral

Phone: 1-800-661-1095

Legal Aid

Edmonton:	780 - 427 - 7575
Calgary:	403 - 297 - 2260
Other areas call	310-0000

Internet Sources of Information

Federal Justice Website:	www.canada.justice.gc.ca
Alberta Government Website:	www.gov.ab.ca
Alberta Justice Website:	www.gov.ab.ca/just
Alberta Courts Website:	www.albertacourts.ab.ca

Child Support Guidelines Website:
www.canada.justice.gc.ca/en/ps/sup/index.html